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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

10 AVRAM VINETO NIKA,
11 Petitioner,
12 vs.
13 TIMOTHY FILSON, *et al.*,
14 Respondent.

Case No. 3:09-cv-00178-JCM-WGC

**STIPULATED FIFTH EXTENSION OF TIME
FOR COMPLIANCE WITH AMENDED
JUDGMENT IN A CIVIL CASE (ECF NO.
201)**

15 In June 2019, this Court granted in part petitioner Avram Viento Nika's (Nika) second-amended
16 federal habeas petition, granting relief on the penalty-phase trial and denying relief as to all other
17 claims. ECF No. 186 at 95. The Court further granted Nika a certificate of appealability on four
18 grounds and stayed the judgment pending conclusion of appellate review or the expiration of time to
19 seek such review. *Id.* at 96.

20 In October 2019, this Court granted Nika's motion to alter or amendment the judgment in part,
21 expanding the certificate of appealability to include an additional ground. ECF No. 200 at 3. On
22 October 4, 2019, this Court issued an amended judgment. ECF No. 201. In that judgment, the Court
23 ordered:

24 IT IS FURTHER ORDERED AND ADJUDGED that Respondents shall
25 either (1) within 60 days from the date of this order, vacate Petitioner's
26 death sentence and impose upon him a non-capital sentence, consistent
27 with law, or (2) within 60 days from the date of this order, file a notice of
the State's intent to grant Petitioner a new penalty-phase trial, and, within
180 days from the date of this order, commence jury selection in the new
penalty-phase trial.

28 ...

1 IT IS FURTHER ORDERED AND ADJUDGED that the judgment in
2 this action will be stayed pending the conclusion of any appellate or
3 certiorari review in the Ninth Circuit Court of Appeals or the United
States Supreme Court, or the expiration of the time for seeking such
appellate or certiorari review, whichever occurs later.

4 *Id.* at 1.

5 Respondents did not appeal, but Nika did. ECF No. 190. Ultimately, the Ninth Circuit affirmed
6 this Court's order denying Nika's claims challenging his convictions. ECF No. 206. This Court ordered
7 the mandate be spread upon the court's records on March 3, 2023. ECF No. 210.

8 Pursuant to this Court's amended judgment, the matter remained stayed until the conclusion of
9 appellate or certiorari review, or the expiration of time to seek the same. Nika had until March 20,
10 2023, to seek certiorari with the United States Court of Appeals. S. Ct. R. 13. He chose not to do so.

11 Once the period for seeking certiorari ended, Respondents had 60 days, until May 19, 2023, to
12 file notice with the Court that the Washoe County District Attorney chose to either vacate Nika's death
13 sentence and impose a non-capital sentence or intended to hold a new penalty-phase trial. *See* ECF No.
14 201 at 1. If the District Attorney chose to hold a new penalty phase, they had 180 days, or September
15 16, 2023, within which to commence jury selection.

16 This Court approved the parties' four stipulations to extend the time for execution of the
17 judgment by sixty (60) days to July 18, 2023. ECF Nos. 216, 220, 222, 225. Specifically, the parties
18 sought to extend the time for the Respondents to file a notice of intent that the prosecution chose to
19 impose a non-capital sentence or intended to hold a new penalty-phase trial. The final extension
20 requires Respondents to file a notice with the Court as to the trial parties' intent to either resentence
21 Nika to a non-capital term or to hold a new penalty-phase trial by April 19 2024, with either the new
22 non-capital sentence imposed or the new penalty-phase trial commencing by October 16, 2024. ECF
23 No. 225.

24 Respondents file the notice of the prosecution's intent to hold a new penalty-phase trial
25 concurrently with this stipulation.

26 Pursuant to the amended judgment, the prosecution now has 180 days from the date of this
27 Court's order on the notice to commence jury selection in the new penalty-phase trial. ECF No. 201
28 at 1. However, the state trial court scheduled the new penalty phase to commence September 8, 2025,

1 with a hearing to confirm the date on August 13, 2025. As the scheduled date for the new hearing is
2 well beyond the 180 days provided in the amended judgment, the parties enter this stipulation to extend
3 the deadline within which the prosecution must commence jury selection to Friday, November 1, 2025.
4 The parties ask for additional time beyond the current trial date should the state parties require a
5 continuance of the existing new penalty-phase trial date.

6 IT IS HEREBY STIPULATED AND AGREED that:

7 1. Concurrent to this stipulation, the Respondents filed the intent of the Washoe County
8 District Attorney to hold a new penalty-phase trial to determine Nika's sentence.

9 2. The new penalty-phase trial is scheduled to commence on September 6, 2025. Given the
10 new trial date, and the potential for a continuance, the parties request this Court extend the deadline by
11 which the penalty-phase trial must commence to and including November 1, 2025.

12 DATED April 9, 2024_

DATED April 9, 2024

13 RENE L. VALLADRES
14 Federal Public Defender

AARON D. FORD
Nevada Attorney General

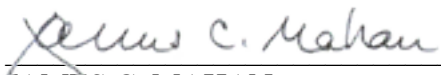
15 /s/ Heather Fraley
16 Heather Fraley (Bar No. 24050621)
17 Assistant Federal Public Defender
411 E. Bonneville Ave. Ste. 250
18 Las Vegas, NV 89101
19 *Attorney for Petitioner*

/s/ Heather D. Procter
Heather D. Procter (Bar No. 8621)
Chief Deputy Attorney General
100 N. Carson St.
Carson City, NV 89701
Attorney for Respondents

20
21 **ORDER**

22 IT IS SO ORDERED.

23 Dated April 19, 2024.

24
25 
26 JAMES C. MAHAN
27 UNITED STATES DISTRICT JUDGE
28

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 9th day of April, 2024, I served a copy of the foregoing **STIPULATED FIFTH EXTENSION OF TIME FOR COMPLIANCE WITH AMENDED JUDGMENT IN A CIVIL CASE (ECF NO. 201)**, by U.S. District Court CM/ECF electronic filing to:

Heather Fraley
Assistant Federal Public Defender
411 East Bonneville Avenue, Suite 250
Las Vegas, NV 89101
Attorneys for Petitioner

/s/ Amanda White

EXHIBIT

EXHIBIT

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

vs.

CASE NO. CR94-2264

DEPT. NO. 7

AVRAM NIKA,

Defendant,

APPLICATION FOR SETTING

TYPE OF ACTION: Criminal

MATTER TO BE HEARD: **Penalty Phase and Motion to Confirm**

DATE OF APPLICATION: February 12, 2024

COUNSEL FOR PLAINTIFF: Deputy District Attorney Luke Prengaman

COUNSEL FOR DEFENDANT: Alternate Public Defender Kate Hickman
Deputy Alternate Public Defender Gianna Verness

PENALTY PHASE: SEPTEMBER 8 - 26, 2025 AT 9:00 A.M.

MOTION TO CONFIRM: AUGUST 13, 2025 AT 9:00 A.M.